

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

YESSUH SUHYES HUSSEY,

Plaintiff,

-against-

BLEEKER WARD,

Defendant.

23-CV-3560 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se*, brought this action in the United States District Court for the Eastern District of New York, which transferred it here.¹ In the complaint, Plaintiff names Bleeker Ward as the sole defendant and asserts a claim arising on October 27, 2022. Plaintiff already has an action pending in this district against Defendant Ward arising from events on October 27, 2022. *See Hussey v. Ward*, No. 23-CV-03526 (LTS) (S.D.N.Y.).

Plaintiff cannot maintain two actions in federal court against the same defendant arising out of the same incident. Because the complaint in this action may contain some new or different information, the Court concludes that it should be filed as an amended complaint in *Hussey v. Ward*, No. 23-CV-03526, and treated as a supplement to the original complaint.

Accordingly, the Court directs the Clerk of Court to (1) file the complaint (ECF 1) from 23-CV-03560, as an amended complaint in the action under docket number 23-CV-03526; and

¹ Because this action is being administratively closed, and the complaint will proceed under a different docket number, the Court has not granted Plaintiff's request to proceed *in forma pauperis*. The Clerk of Court shall not charge Plaintiff the \$350.00 filing fee for this action, and the Warden or Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

(2) to administratively close this action. Any further filings in connection with Plaintiff's claims against Defendant Ward must be filed only in the action under docket number 23-CV-03526.

CONCLUSION

The Court directs the Clerk of Court to (1) file the complaint (ECF 1) from 23-CV-3560, as an amended complaint in the action under docket number 23-CV-03526; and (2) to administratively close this action. The Clerk of Court shall terminate all pending matters in this action. No further filings shall be made under this docket number.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: April 28, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge